

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS**

STERLING THOMPSON, et al.,

Plaintiffs,

v.

Case No. 06-2460-JWL

JERRY BERG, et al.,

Defendants.

MEMORANDUM AND ORDER

Plaintiffs Sterling Thompson and others, proceeding pro se, filed this lawsuit arising from a road rage incident in 1990 which culminated in the shooting death of Datton Wilson, Jr. Plaintiffs filed this lawsuit against various individuals who were involved in the incident, primarily police officers employed by the City of Haysville, Kansas. This matter is now before the court on plaintiffs' motion to voluntarily dismiss this case without prejudice (doc. #10). Therein, plaintiffs move to dismiss this case pursuant to Rule 41(a)(1) of the Federal Rules of Civil Procedure. Plaintiffs are entitled to dismiss this action voluntarily "by filing a notice of dismissal at any time before service by the adverse party of an answer or of a motion for summary judgment, whichever first occurs." Fed. R. Civ. P. 41(a)(1)(i). Mindful of plaintiffs' status as pro se litigants, the court liberally construes their "motion" as the required notice of dismissal. Plaintiffs filed this document before any of the defendants filed their answers in this case and, in fact, before any of them even appeared in this case.

Accordingly, plaintiffs are entitled to dismissal without prejudice as a matter of right. *See Janssen v. Harris*, 321 F.3d 998, 1000 (10th Cir. 2003) (noting a plaintiff has an absolute right to dismiss without prejudice under Rule 41(a)(1)(i)). All other pending motions are denied for lack of jurisdiction. *See Netwig v. Georgia Pac. Corp.*, 375 F.3d 1009, 1011 (10th Cir. 2004) (noting that once such a dismissal is filed “the district court loses jurisdiction over the dismissed claims and may not address the merits of such claims or issue further orders pertaining to them”).

IT IS THEREFORE ORDERED BY THE COURT that plaintiffs’ motion to voluntarily dismiss this case (doc. #10) is granted. This case is dismissed pursuant to Fed. R. Civ. P. 41(a)(1)(i).

IT IS SO ORDERED this 6th day of July, 2007.

s/ John W. Lungstrum
John W. Lungstrum
United States District Judge